

109TH CONGRESS  
2D SESSION

# H. R. 5842

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2006

Mr. PEARCE (for himself, Mr. UDALL of New Mexico, and Mrs. WILSON of New Mexico) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To compromise and settle all claims in the case of Pueblo of Isleta v. United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Pueblo of Isleta Settle-  
5       ment and Natural Resources Restoration Act of 2006”.

6       **SEC. 2. FINDINGS AND PURPOSES.**

7       (a) FINDINGS.—Congress finds that—

1           (1) there is pending before the United States  
2       Court of Federal Claims a civil action filed by the  
3       Pueblo against the United States in which the Pueb-  
4       lo seeks to recover damages pursuant to the Isleta  
5       Jurisdictional Act;

6           (2) the Pueblo and the United States, after a  
7       diligent investigation of the Pueblo claims, have ne-  
8       gotiated a Settlement Agreement, the validity and  
9       effectiveness of which is contingent on the enact-  
10      ment of enabling legislation;

11          (3) certain land of the Pueblo is waterlogged,  
12      and it would be to the benefit of the Pueblo and  
13      other water users to drain the land and return water  
14      to the Rio Grande River; and

15          (4) there is Pueblo forest land in need of reme-  
16      diation in order to improve timber yields, reduce the  
17      threat of fire, reduce erosion, and improve grazing  
18      conditions.

19      (b) PURPOSES.—The purposes of this Act are—

20          (1) to improve the drainage of the irrigated  
21      land, the health of the forest land, and other natural  
22      resources of the Pueblo; and

23          (2) to settle all claims that were raised or could  
24      have been raised by the Pueblo against the United

1 States under the Isleta Jurisdictional Act in accord-  
2 ance with section 5.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) ISLETA JURISDICTIONAL ACT.—The term  
6 “Isleta Jurisdictional Act” means Public Law 104–  
7 198 (110 Stat. 2418).

8 (2) PUEBLO.—The term “Pueblo” means the  
9 Pueblo of Isleta, a federally recognized Indian tribe.

10 (3) RESTORATION FUND.—The term “Restora-  
11 tion Fund” means the Pueblo of Isleta Natural Re-  
12 sources Restoration Fund established by section  
13 4(a).

14 (4) SECRETARY.—The term “Secretary” means  
15 the Secretary of the Interior.

16 (5) SETTLEMENT AGREEMENT.—The term  
17 “Settlement Agreement” means the Agreement of  
18 Compromise and Settlement entered into between  
19 the United States and the Pueblo, dated July 12,  
20 2005, as modified by the Extension and Modification  
21 Agreement executed by the United States and the  
22 Pueblo on June 22, 2006, to settle the claims of the  
23 Pueblo in Docket No. 98–166L, a case pending in  
24 the United States Court of Federal Claims.

1 **SEC. 4. PUEBLO OF ISLETA NATURAL RESOURCES RES-**  
2 **TORATION TRUST FUND.**

3 (a) ESTABLISHMENT.—There is established in the  
4 Treasury a trust fund, to be known as the “Pueblo of  
5 Isleta Natural Resources Restoration Fund”, consisting  
6 of—

7 (1) such amounts as are transferred to the Res-  
8 toration Fund under subsection (b); and

9 (2) any interest earned on investment of  
10 amounts in the Restoration Fund under subsection  
11 (d).

12 (b) TRANSFERS TO RESTORATION FUND.—Upon  
13 entry of the final judgment described in section 5(b), there  
14 shall be transferred to the Restoration Fund, in accord-  
15 ance with conditions specified in the Settlement Agree-  
16 ment and this Act—

17 (1) \$32,838,750 from the permanent judgment  
18 appropriation established pursuant to section 1304  
19 of title 31, United States Code; and

20 (2) in addition to the amounts transferred  
21 under paragraph (1), at such times and in such  
22 amounts as are specified for that purpose in the an-  
23 nual budget of the Department of the Interior, au-  
24 thorized to be appropriated under subsection (f), and  
25 made available by an Act of appropriation, a total of  
26 \$7,200,000.

1       (c) DISTRIBUTION OF AMOUNTS FROM RESTORA-  
2 TION FUND.—

3           (1) APPROPRIATED AMOUNTS.—

4               (A) IN GENERAL.—Subject to paragraph  
5       (3), upon the request of the Pueblo, the Sec-  
6       retary shall distribute amounts deposited in the  
7       Restoration Fund pursuant to subsection (b)(2)  
8       of this section and section V of the Settlement  
9       Agreement, in accordance with the terms and  
10      conditions of the Settlement Agreement and  
11      this Act, on the condition that before any such  
12      distribution the Secretary receives from the  
13      Pueblo such assurances as are satisfactory to  
14      the Secretary that—

15               (i) the Pueblo shall deliver funds in  
16              the amount of \$7,100,000 toward drainage  
17              and remediation of the agricultural land  
18              and rehabilitation of forest and range land  
19              of the Pueblo in accordance with section  
20              IV(C) and IV(D) of the Settlement Agree-  
21              ment; and

22               (ii) those funds shall be available for  
23              expenditure for drainage and remediation  
24              expenses as provided in sections IV(C) and  
25              IV(D) of the Settlement Agreement on the

1            dates on which the Secretary makes dis-  
2            tributions, and in amounts equal to the  
3            amounts so distributed, in accordance with  
4            sections IV(A) and IV(B) of the Settle-  
5            ment Agreement.

6            (B) USE OF FUNDS.—Of the amounts dis-  
7            tributed by the Secretary from the Restoration  
8            Fund under subparagraph (A)—

9                    (i) \$5,700,000 shall be available to  
10            the Pueblo for use in carrying out the  
11            drainage and remediation of approximately  
12            1,081 acres of waterlogged agricultural  
13            land, as described in section IV(A) of the  
14            Settlement Agreement; and

15                    (ii) \$1,500,000 shall be available to  
16            the Pueblo for use in carrying out the re-  
17            habilitation and remediation of forest and  
18            range land, as described in section IV(B)  
19            of the Settlement Agreement.

20            (C) FEDERAL CONSULTATION.—Restora-  
21            tion work carried out using funds distributed  
22            under this paragraph shall be planned and per-  
23            formed in consultation with—

24                    (i) the Bureau of Indian Affairs; and

1                   (ii) such other Federal agencies as are  
2                   necessary.

3                   (D) UNUSED FUNDS.—Any funds, includ-  
4                   ing any interest income, that are distributed  
5                   under this paragraph but that are not needed  
6                   to carry out this paragraph shall be available  
7                   for use in accordance with paragraph (2)(A).

8                   (2) AMOUNTS FROM JUDGMENT FUND.—

9                   (A) IN GENERAL.—Subject to paragraph  
10                  (3), the amount paid into the Restoration Fund  
11                  under subsection (b)(1), and interest income re-  
12                  sulting from investment of that amount, shall  
13                  be available to the Pueblo for—

14                  (i) the acquisition, restoration, im-  
15                  provement, development, and protection of  
16                  land, natural resources, and cultural re-  
17                  sources within the exterior boundaries of  
18                  the Pueblo, including improvements to the  
19                  water supply and sewage treatment facili-  
20                  ties of the Pueblo; and

21                  (ii) for the payment and reimburse-  
22                  ment of attorney and expert witness fees  
23                  and expenses incurred in connection with  
24                  Docket No. 98–166L of the United States

1 Court of Federal Claims, as provided in  
2 the Settlement Agreement.

3 (B) NO CONTINGENCY ON PROVISION OF  
4 FUNDS BY PUEBLO.—The receipt and use of  
5 funds by the Pueblo under this paragraph shall  
6 not be contingent upon the provision by the  
7 Pueblo of the funds described in paragraph  
8 (1)(A)(i).

9 (3) EXPENDITURES AND WITHDRAWAL.—

10 (A) TRIBAL MANAGEMENT PLAN.—

11 (i) IN GENERAL.—Subject to clause  
12 (ii), the Pueblo may withdraw all or part  
13 of the Restoration Fund on approval by  
14 the Secretary of a tribal management plan  
15 in accordance with section 202 of the  
16 American Indian Trust Fund Management  
17 Reform Act of 1994 (25 U.S.C. 4022).

18 (ii) REQUIREMENTS.—In addition to  
19 the requirements under the American In-  
20 dian Trust Fund Management Reform Act  
21 of 1994 (25 U.S.C. 4001 et seq.), a tribal  
22 management plan described in clause (i)  
23 shall require that the Pueblo shall expend  
24 any funds withdrawn from the Restoration  
25 Fund under this paragraph in a manner



1           consistent with the purposes described in  
2           the Settlement Agreement.

3           (B) ENFORCEMENT.—The Secretary may  
4           take judicial or administrative action to enforce  
5           the provisions of any tribal management plan  
6           described in subparagraph (A)(i) to ensure that  
7           any funds withdrawn from the Restoration  
8           Fund under this paragraph are used in accord-  
9           ance with this Act.

10          (C) LIABILITY.—If the Pueblo exercises  
11          the right to withdraw funds from the Restora-  
12          tion Fund under this paragraph, neither the  
13          Secretary nor the Secretary of the Treasury  
14          shall retain any liability for the accounting, dis-  
15          bursement, or investment of the funds with-  
16          drawn.

17          (D) EXPENDITURE PLAN.—

18               (i) IN GENERAL.—The Pueblo shall  
19               submit to the Secretary for approval an ex-  
20               penditure plan for any portion of the funds  
21               in the Restoration Fund made available  
22               under this Act that the Pueblo does not  
23               withdraw under this paragraph.

24               (ii) DESCRIPTION.—The expenditure  
25               plan shall describe the manner in which,

1 and the purposes for which, funds of the  
2 Pueblo remaining in the Restoration Fund  
3 will be used.

4 (iii) APPROVAL.—On receipt of an ex-  
5 penditure plan under clause (i), the Sec-  
6 retary shall approve the plan if the Sec-  
7 retary determines that the plan is reason-  
8 able and consistent with this Act and the  
9 Settlement Agreement.

10 (E) ANNUAL REPORT.—The Pueblo shall  
11 submit to the Secretary an annual report that  
12 describes expenditures from the Restoration  
13 Fund during the year covered by the report.

14 (d) MAINTENANCE AND INVESTMENT OF RESTORA-  
15 TION FUND.—

16 (1) IN GENERAL.—The Restoration Fund and  
17 amounts in the Restoration Fund shall be main-  
18 tained and invested by the Secretary of the Interior  
19 pursuant to the first section of the Act of June 24,  
20 1938 (52 Stat. 1037, chapter 648).

21 (2) CREDITS TO RESTORATION FUND.—The in-  
22 terest on, and the proceeds from the sale or redemp-  
23 tion of, any obligations held in the Restoration Fund  
24 shall be credited to, and form a part of, the Restora-  
25 tion Fund.

1 (e) PROHIBITION ON PER-CAPITA PAYMENTS.—No  
2 portion of the amounts in the Restoration Fund shall be  
3 available for payment on a per capita basis to members  
4 of the Pueblo.

5 (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to the Restoration Fund  
7 \$7,200,000.

8 **SEC. 5. RATIFICATION OF SETTLEMENT, DISMISSAL OF**  
9 **LITIGATION, AND COMPENSATION TO PUEB-**  
10 **LO.**

11 (a) RATIFICATION OF SETTLEMENT AGREEMENT.—  
12 The Settlement Agreement is ratified.

13 (b) DISMISSAL.—Not later than 90 days after the  
14 date of the enactment of this Act, the Pueblo and the  
15 United States shall execute and file a joint stipulation for  
16 entry of final judgment in the case of Pueblo of Isleta v.  
17 United States, Docket 98–166L, in the United States  
18 Court of Federal Claims in such form and such manner  
19 as are acceptable to the Attorney General and the Pueblo.

20 (c) COMPENSATION.—After the date of the enact-  
21 ment of this Act, in accordance with the Settlement Agree-  
22 ment and upon entry of the final judgment described in  
23 subsection (b)—

24 (1) compensation to the Pueblo shall be paid  
25 from the permanent judgment appropriation estab-

1 lished pursuant to section 1304 of title 31, United  
2 States Code, in the total amount of \$32,838,750 for  
3 all monetary damages and attorney fees, interest,  
4 and any other fees and costs of any kind that were  
5 or could have been presented in connection with  
6 Docket No. 98–166L of the United States Court of  
7 Federal Claims; but

8 (2) the Pueblo shall retain all rights, including  
9 the right to bring civil actions based on causes of ac-  
10 tion, relating to the removal of ordnance under—

11 (A) the Comprehensive Environmental Re-  
12 sponse, Compensation, and Liability Act of  
13 1980 (42 U.S.C. 9601 et seq.);

14 (B) the Defense Environmental Restora-  
15 tion Program under section 2701 of title 10,  
16 United States Code; and

17 (C) any contract entered into by the Pueb-  
18 lo for the removal of ordnance.

19 (d) OTHER LIMITATIONS ON USE OF FUNDS.—The  
20 Indian Tribal Judgment Funds Use or Distribution Act  
21 (25 U.S.C. 1401 et seq.) shall not apply to funds distrib-  
22 uted or withdrawn from the Restoration Fund under this  
23 Act.

1       (e) NO EFFECT ON LAND, RESOURCES, OR WATER  
2 RIGHTS.—Nothing in this Act affects the status of land  
3 and natural resources or any water right of the Pueblo.

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